

**Supreme Court, U.S.**  
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**In The**  
**SUPREME COURT OF THE UNITED STATES**

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**JOHN TELLO**  
Appellant-Petitioner,

v.

**COMMISSIONER OF INTERNAL REVENUE,**  
Respondent-Appellee-Respondent

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**ON PETITION FOR WRIT OF CERTIORARI TO**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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**ORIGINAL PETITION FOR WRIT OF CERTIORARI**

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**JOHN TELLO**  
**P.O. BOX 870983**  
**MESQUITE, TEXAS 75187**

## **Questions Presented**

### **Due Process, Equal Protection—Tax Court Rules**

1. Does TCR 54 restrict petitioners only?
2. Does TCR 121 restrict petitioners only?

### **Due Process, Equal Protection—Evidence**

3. Does IRC § 7459(d) allow “no-evidence-required” judgments?
4. Does IRC § 7459(d) allow judgments that defy the only evidence of Record?

### **STATUTORY CHALLENGE**

5. If either is Yes, does IRC § 7459(d) violate Due Process?

### **Due Process—Ethics, Sanctions**

6. Should GERBER and PANUTHOS have self-recused?  
If so, is *Liljeberg* satisfied?
7. How do the Tax Court and the Fifth Circuit avoid paying Tello penalties per § 6673?

### **Parties**

The parties to the court of appeals judgment sought to be reviewed are the following:

Appellant

JOHN TELLO

Appellee

COMMISSIONER OF INTERNAL REVENUE  
(thus SECRETARY OF THE TREASURY ("Secretary"),  
and UNITED STATES OF AMERICA)

EILEEN J. O'CONNOR, Assistant AG  
BRUCE R. ELLISEN, DOJ  
ANTHONY T. SHEEHAN, DOJ (sole signatory)

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## **Appendix A (with separate Table of Contents)**

### **Citations to decisions below**

None.

### **Jurisdiction**

(i) Date Judgment Entered

18 July 2005 [+90: Sunday, 16 October 2005]

(ii) Rehearing, Extension None

(iii) Rule 12.5 Cross-appeal N/A

(iv) Statutes, Jurisdiction

Review by certiorari of decision by court of appeals,  
28 U.S.C. §§ 1254(1), 2101(c).

(v) Regarding notice of statutory challenge, Rule 29.4(b)

Tello challenged IRC § 7459(d) on appeal, and DOJ received a copy of that Brief/Notice. Therefore, "28 U.S.C. § 2403(a) may apply;" the initial filing of this petition is served on the Solicitor General; and no other formal notice, outside the normal course of litigation, has been issued.

### **Non-Argument Calendar Preferred**

Oral argument is not expected to aid in the resolution of these issues.